

EXHIBIT V

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CELESTE WILLIAMS, LAUREN CRUZ, EMANUEL O'NEALE, BRANDON STURMAN, LATRESHA HALL, LAKEISHA MITCHELL, CHRISTINE BORBELY and JANINE APONTE on behalf of themselves and others similarly situated.

Plaintiffs.

-against- Index No. .

07cv3978

TWENTY ONES, INC., d/b/a THE 40/40
CLUB, SHAWN CARTER p/k/a JAY-Z,
JUAN PEREZ and DESIREE GONZALES.

Defendants.

DEPOSITION of ANITA GILLETTE, a Plaintiff
herein, taken pursuant to Notice, and held
at the offices of Littler Mendelson, P.C.,
885 Third Avenue, New York, New York, before
Leeann Bertorelli, a Court Reporter and
Notary Public of the State of New York.

ANITA GILLETTE

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1 MS. SHEINKIN: Can you mark this as 1 A. No, I don't.
 2 D. 2 Q. Did you go to regular staff
 3 (Gillette Exhibit D, 3 meetings?
 4 ACKNOWLEDGEMENT FORM, was 4 A. Yes.
 5 marked for identification.) 5 Q. How often?
 6 6 A. Every Monday.
 7 7 Q. And were they at the same time every
 8 Q. Is this the acknowledgement form you 8 Monday?
 9 were referring to? 9 A. I think it's 5:00, I believe.
 10 A. I'm not sure if this is the form, 10 Q. And who attended those meetings?
 11 specifically. It was a booklet. It wasn't this. 11 A. Employees.
 12 It was like a booklet, employee manual. 12 Q. All employees?
 13 Q. And you signed something that you 13 A. I think just front-of-the-house
 14 had received it. This says, I have read and 14 employment.
 15 understand the employee manual. 15 Q. Who would that consist of?
 16 A. I don't -- this -- I received an 16 A. Servers and bartenders. Yeah,
 17 employee manual, I believe, 30 to 45 days after I 17 servers and bartenders.
 18 worked there. This I signed, obviously. 18 Q. So not all front of the house,
 19 Q. Okay. This was signed on May 12th? 19 bussers weren't there?
 20 A. Correct. 20 A. I don't think they were. I'm not
 21 Q. So this was when you began working 21 sure.
 22 at the 40/40 Club? 22 Q. So only for servers and bartenders?
 23 A. Correct. 23 A. Yes.
 24 Q. So what documents are you referring 24 Q. And those are the tipped employees?
 27 29
 1 to when you say, I have read and understood the 1 A. Yes, I believe so.
 2 employee manual? 2 Q. Who ran the meetings?
 3 A. Like I said, I personally received a 3 A. Managers and/or the owner.
 4 document, which is big booklet, which was the 4 Q. The "owner" referring to --
 5 manual. I did not receive that until 30 to 45 5 A. Desiree.
 6 days after I worked there. This document must 6 Q. Did employees also participate in
 7 have been something that I signed. 7 the meetings?
 8 Q. But do you recall what you were 8 A. Yes.
 9 referring to when you said, I have read and 9 Q. If they ever needed to raise any
 10 understood the employee manual? 10 comments or questions that you had?
 11 A. No.
 12 Q. When you signed this you hadn't read 11 A. Uh-huh.
 13 and understood the employee manual? 12 Q. Sorry. Just so she can take it down
 14 MR. KIRSCHENBAUM: Objection. 13 I need yes or no.
 15 A. Well, this might be a part of a 14 A. Oh, yes.
 16 different -- I don't know what manual you're 15 Q. What Shawn Carter ever present for
 17 referring to. But I know as far as that big 16 the meetings?
 18 handbook that we received, I didn't receive that 17 A. No.
 19 until 30 to 45 days after I started working. 18 Q. Was Juan Perez ever present?
 20 This might be pertaining to something else. 19 A. No, not at any meeting I attended.
 21 Q. But you don't -- 20 Q. And did you attend all the meetings
 22 A. A smaller booklet or some other 21 when you were scheduled to work on a Monday?
 23 information. 22 A. I don't think -- I don't know if I
 24 Q. But you don't recall? 23 attended every single meeting. But I attended
 24 the ones that I was required to attend. I

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1 attended the ones I could attend.

2 Q. And you attend the meetings on days
3 that you were scheduled to work?

4 A. Days you were scheduled to work, and
5 days you were not scheduled to work.

6 Q. So you would come in --

7 A. For the meeting.

8 Q. Okay. Then why would you not be
9 required to attend any particular meeting?

10 A. Well, sometimes -- I don't know if I
11 attended every single one. You're asking me if I
12 attended every single meeting; correct?

13 Q. Uh-huh.

14 A. Well, I'm not sure if I attended
15 every single meeting, that's what I'm saying.

16 Q. Do you recall how many meetings that
17 you missed?

18 A. I don't recall if I missed any or if
19 I didn't miss any. I'm saying I don't know if I
20 attended every meeting.

21 Q. Okay. But you don't have any
22 recollection of not having attended any
23 particular meeting?

24 A. Not specifically.

1 which on the weekend would be 4, sometimes
2 earlier during the week. Was there other work
3 that you had to perform?

4 A. Yes.

5 Q. What would you do?

6 A. We had to clean the entire club.
7 You had to clean your area. Everybody had to
8 help everybody else finish their area. You were
9 stuck there until everything was done.

10 Q. What did that consist of?

11 A. Just basically cleaning your
12 section, making sure it was clean, fluffing
13 pillows and organizing pillows so they were
14 correct. They had a format, making you clean the
15 side stations, that kind of thing, sweeping
16 everything.

17 Q. How long did that take?

18 A. Anywhere from an hour to two hours,
19 sometimes depending. And you needed to wait to
20 get your money. Everybody had to cash out.

21 Q. Wait to get what money?

22 A. Well, you had to, you know, organize
23 your money. So then you had to wait for them to
24 take your money -- their house money. So you had

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1 Q. What time did the 40/40 Club open?
2 A. I think 5, 4:30, something like
3 that.

4 Q. Okay. And what time did it close?

5 A. 4:00 on -- well, it depended. I
6 mean sometimes they would close the restaurant,
7 the club, down early, if there was no business.
8 But on the weekends they close at 4.

9 Q. So it would be during the weekdays
10 that the club would sometimes close early?

11 A. Right. Depending on who was there,
12 which manager was there.

13 Q. What would the difference between
14 the manager be?

15 A. What do you mean?

16 Q. You said depending on which manager?
17 A. Right.

18 Q. Some managers were more likely to
19 close early than others?

20 A. Right. Or send you home.

21 Q. Okay. When the club closed early,
22 what time would that usually be?

23 A. Maybe 2, 3. I'm not sure.

24 Q. After the club stopped serving,

1 to sit around and wait after you finish cleaning.
2 Q. Who would you be giving that money
3 to?

4 A. Desiree or Juan at certain times, or
5 the manager.

6 Q. You were required to clock in and
7 out?

8 A. Yeah.

9 Q. And that was on POSitouch?

10 A. Right.

11 Q. So you would clock in, first thing?
12 A. Uh-huh.

13 Q. And then clock out?

14 A. Yup.

15 Q. And you needed to be clocked in in
16 order to take orders -- to take customer's
17 orders; correct?

18 A. Correct.

19 Q. When you clocked out, were you
20 required to report the tips that you had earned
21 that shift?

22 A. Yes.

23 Q. Could you clock out without
24 reporting your tips?

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1 A. No, you couldn't.

2 Q. And did you accurately report your
3 tips on POSitouch?4 A. Yeah, you're legally bound to
5 report eight percent of your tips; at that time
6 that was the law.7 Q. So you reported eight percent of
8 your tips?9 A. Well, it depended. I don't
10 necessarily remember what I did on specific days.11 I reported whatever I reported. Whatever
12 documents indicate that most likely that's what I
13 reported.14 Q. Just so I understand, the number you
15 reported was based on a percentage of the tips
16 that you had earned?

17 MR. KIRSCHENBAUM: Objection.

18 That's not what she said.

19 Q. You can answer.

20 A. All right. I reported, you know,
21 basically whatever I reported on a specific day.22 Q. Well, when you were punching out,
23 I'm trying to understand, how you would determine
24 what number to put in?

1 has no knowledge of.

2 MS. SHEINKIN: The question was
3 whether or not she paid taxes.4 MR. KIRSCHENBAUM: You said other
5 than what the club withheld. She has no
6 way of knowing that the club withheld any
7 money or did not withhold any money.8 Q. Ms. Gillette, I know you said you
9 understood that the club withheld taxes on your
10 tips from your wages; correct?

11 A. Right. All employers do that.

12 Q. Okay. So other than that amount,
13 did you ever pay any taxes for the tips you
14 earned at the 40/40 Club?

15 A. To the government?

16 Q. Yeah.

17 A. No.

18 Q. Did you ever forget to clock in?

19 A. I may have.

20 Q. Well, could you have -- I guess you
21 said you couldn't take orders unless you clocked
22 in?

23 A. Correct.

24 Q. So then would it be possible for you

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1 A. Well, like I said, it was legally
2 eight percent you were supposed to declare. So
3 it would be based on a certain amount of money.
4 Whatever money I made it would be based on that.5 Q. But not necessarily always eight
6 percent. Is there any reason you wouldn't put
7 eight percent, if that's what you were legally
8 required to do?

9 A. No. No reason to do that.

10 Q. Did you understand that your tips
11 were considered income?

12 A. Yes.

13 Q. And they were subject to tax
14 withholdings?

15 A. Correct.

16 Q. And did you understand that the club
17 would withhold taxes on your tips from your
18 wages?

19 A. Correct.

20 Q. Other than what the club withheld,
21 did you ever pay any taxes for the tips you
22 earned at the 40/40 Club?23 MR. KIRSCHENBAUM: Objection. That
24 question assumes something that my client

1 to not clock in?

2 A. Correct.

3 Q. Correct? It would not be possible?

4 A. Well, like you said, if you can't
5 take orders unless you clocked in, then,
6 obviously, I must have clocked in.

7 Q. Did you ever forget to clock out?

8 A. I don't believe so.

9 Q. You don't recall any time when you
10 forgot to clock out?

11 A. No. I don't recall.

12 Q. Do you know what the policy was if
13 you did forget to clock out?14 A. Not off the top of my head. I don't
15 know. Actually, I don't know.16 Q. What's the latest that you ever
17 worked at the 40/40 Club?

18 A. Latest time I left and clocked out?

19 Probably, 7.

20 Q. When was that?

21 A. I don't know.

22 Q. How often do you think you worked --
23 stayed until 7?

24 A. Sporadically.

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1 **Q.** And you also had them sign the 1 **the credit card receipt?**
 2 credit card? 2 A. What would I do with it?
 3 A. Correct. 3 **Q.** Uh-huh. Would you also hold that?
 4 **Q.** Was there a minimum amount that a 4 A. Yeah.
 5 customer had to buy for a credit card purchase? 5 **Q.** And you hold those for the entire
 6 A. I don't remember if there was or was 6 night?
 7 not. 7 A. Shift, uh-huh.
 8 **Q.** Okay. And before presenting the 8 **Q.** Until the end of your shift. So you
 9 bill you added a 20 percent gratuity? 9 were holding your money and the clubs money
 10 A. Correct. 10 through your shift.
 11 **Q.** And you did that to every order? 11 A. Correct.
 12 A. Yeah, pretty much.
 13 **Q.** What do you mean "pretty much"? 13 **Q.** Okay. And then at the end of the
 14 A. I think every order we pretty much 14 shift, what was the process?
 15 added 20 percent. I mean, like I said -- so I 15 A. You would -- well, you mean like as
 16 think there might have been one or two times 16 far as --
 17 maybe -- about five times where you use your 16 **Q.** Like a cash out.
 18 discretion. You figure you'd make more money by 17 A. Cash out. So you'd print your
 19 not doing that. If one person ordered a drink 18 report, and then you would do the normal
 20 you wouldn't put 20 percent on there; it wasn't 19 deduction. I don't remember what the specifics
 21 going to be much.
 22 **Q.** So the only time you would put 20 20 were. But you would then separate your money
 23 percent is if you thought you could get more? 21 from the house's money.
 24 A. Right. 22 **Q.** What do you mean by "the normal
 23 23 deduction"?
 24 A. Well, you have to tip out the 24 A. Bartender. I think -- I don't know if we had a
 47 1 bartender. I think -- I don't know if we had a
 2 **Q.** A greater amount of tip by leaving 2 busser system. I'm not sure.
 3 it off? 3 **Q.** Okay. So you were required to tip
 3 A. Yup.
 4 **Q.** And there was a function on 4 out to some employees?
 5 POSitouch that permitted you to add the 20 5 A. Uh-huh.
 6 percent? 6 **Q.** And you would do that before cashing
 7 A. Correct.
 8 **Q.** Okay. If a customer paid you and 7 out?
 9 gave you cash, what did you do with the money? 8 A. During your cash out you would
 10 A. You would hold it. 9 separate -- you would separate your house, and
 11 **Q.** Okay. Were you wearing an apron -- 10 then what you earned in tips. And from what you
 12 A. Yeah.
 13 **Q.** -- or you had something, and you 11 earned in tips you'd separate what you were
 14 just kept all the money in there? 12 taking home, and what you were giving out to
 15 A. Correct.
 16 **Q.** And that included the sale amount 13 other employees.
 17 and the tip?
 18 A. Right.
 19 **Q.** Did you keep them separate or 14 **Q.** Okay. Which employees did you tip
 20 together?
 21 A. Varied. It depends. It depends on 15 out?
 22 how I felt. Sometimes I put the cash away. I 16 A. Bartenders, and I'm not sure if we
 23 think, primarily, I kept it all together. 17 had bussers. I don't remember.
 24 **Q.** Okay. And what would you do with 18 **Q.** How much did you tip out to the
 24 19 bartenders?
 21 20 A. I don't know.
 22 21 **Q.** You don't recall? So you would
 23 print your report, and then you said you would 22 give the club their money?
 24 23 A. Right.

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1 **Q. And you kept all of the tips that
2 you had earned during the night?**

3 A. No, I gave part of the tips.

4 **Q. Other than what you tipped out?**

5 A. Correct.

6 **Q. And concerning the credit card
7 receipts, you would hold on in cash to whatever
8 amount you had earned in tips on credit cards?**

9 MR. KIRSCHENBAUM: Objection.

10 That's not what she said.

11 MS. SHEINKIN: I'm asking a
12 question.

13 MR. KIRSCHENBAUM: All right.

14 A. I'm sorry. Can you repeat the
15 question.

16 **Q. When you were going through the cash
17 out process, you had cash and you had credit card
18 receipts.**

19 A. Uh-huh.

20 **Q. Would you deduct the amount of the
21 credit card tips you had received from the amount
22 of cash you were turning over to the club?**

23 A. I'm not sure what the process was.

24 But I know that you received the payment. If

1 A. Either the owners or the managers at
2 the time.

3 **Q. What -- who are you referring to by
4 "owners"?**

5 A. Desiree.

6 **Q. Anyone else?**

7 A. Well, the owners, they're
8 collectively together, so.

9 **Q. But you're referring to Desiree --**

10 A. Correct.

11 **Q. -- as the person?**

12 A. Correct.

13 **Q. Did that happen to you?**

14 A. Yes.

15 **Q. How many times?**

16 A. I think three -- about three times.

17 Maybe three or four times. I'm not sure. I
18 remember the first time it happened.

19 **Q. All right. Tell me about that.**

20 **When was that?**

21 A. It was the first day I worked.

22 **Q. Your first day?**

23 A. Uh-huh. First day I worked by
24 myself, like taking care of my own separate --

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1 somebody tipped you on the credit card, you
2 receive that money. I'm not sure if they gave it
3 to you afterwards or prior; I don't remember the
4 details.

5 But you received what you earned on
6 the tips, unless there was a problem with the
7 credit card transaction. If they felt that it
8 wasn't sufficient then they would take your
9 money.

10 **Q. And you're still referring to the
11 cash out procedure?**

12 A. Right.

13 **Q. What would be a problem with the
14 credit card?**

15 A. If they felt the signatures weren't
16 enough or you missed, you know, you didn't take a
17 number down, or something was off.

18 **Q. And when you say "they would take
19 your money," who --**

20 A. Management.

21 **Q. -- are you referring to?**

22 A. Management.

23 **Q. Was there somebody in particular you
24 were working with?**

1 **Q. After training?**

2 A. Right. Uh-huh. They -- well, she
3 didn't feel like it was sufficient. She took
4 \$70, I believe, from me at that specific time.

5 **Q. Did you receive a write-up?**

6 A. I didn't sign documents that day,
7 no.

8 **Q. What did the \$70 --**

9 A. It was the total amount of the
10 check, I believe.

11 **Q. And that was with Desiree?**

12 A. Yes.

13 **Q. And what was the problem with the
14 credit card?**

15 A. I don't remember the specifics, but
16 there was an error made on my account. So she
17 took the check -- the value of the check.

18 **Q. But you don't have any documents
19 evidencing that?**

20 A. They gave me the receipt and said
21 come back. And I think -- I don't remember. I
22 was told it was 90 days, but I don't remember the
23 time period they told me initially. But they
24 said, take this and come back for your money

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1 after the credit card clears with the bank.

2 Q. Did you do that?

3 A. I went back, but nobody said
4 anything.

5 Q. You went back to --

6 A. I asked the manager about it.

7 Q. What manager?

8 A. David.

9 Q. Do you recall his last name?

10 A. No.

11 Q. And what did you say?

12 A. I said, so am I going to ever get
13 this credit card money back, and he said, I don't
14 know.

15 Q. Did you ever follow up?

16 A. No.

17 Q. Did he give you any other
18 information?

19 A. No, not specifically.

20 Q. Did you ever ask Desiree about it?

21 A. No.

22 Q. So you still have that receipt?

23 A. No.

24 Q. What did you do with it?

1 A. I discarded it most likely. I don't
2 have it.

3 Q. You looked for it?

4 A. Not specifically. I don't think I
5 would have that after all this time. It was a
6 credit card receipt, or a copy or something that,
7 you know, showed that they took that money from
8 me.9 Q. Okay. So there were two other
10 times?

11 A. Yes.

12 Q. When was the second time?

13 A. I don't remember the day.

14 Q. How long after you started working?

15 A. Maybe a month or something like
16 that. I'm not sure.17 Q. And what were the circumstances?
18 A. I don't remember that incident.19 Q. You don't remember anything about
20 it?

21 A. No.

22 Q. Do you remember who took the money?

23 A. No.

24 Q. Do you remember how much it was?

1 A. I don't remember the amount either.

2 I think it was like -- I think it was the tip.

3 It wasn't even the bill. I think it was the tip
4 that was on there.5 Q. So they only held the amount of your
6 tip?

7 A. Right. The second time.

8 Q. And did you go back after 90 days to
9 ask for that money?

10 A. No.

11 Q. Why not?

12 A. Because at that time I had already
13 become accustomed to the practices there. So I
14 knew I wasn't getting the money back.15 Q. Well, that was just the second time
16 it happened; right?

17 A. Right.

18 Q. And you never had asked Desiree the
19 first time about the money?

20 A. Correct.

21 Q. And when was the third time?

22 A. I was doing a party with another
23 person. We had -- we were pooling tips. And
24 then there was an error made on our accounts. I

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1 I think it was in the sum of 200. Something over
2 \$200 that we had lost.

3 Q. So \$200 that club didn't receive?

4 A. That they took from us.

5 Q. Who was the other person you're
6 referring to?7 A. Some girl. I don't remember her
8 name.

9 Q. Can you describe her?

10 A. As far as what?

11 Q. What she looked like?

12 A. She was -- black or brown hair.

13 She's African American. I think she spoke
14 Spanish. She might have been Dominican heritage.

15 Q. She was another server?

16 A. Yes.

17 Q. And do you recall the party?

18 A. I don't think it was a party. I

19 think we were working a specific area.

20 Q. Okay. And you pooled your tips
21 together?

22 A. Right.

23 Q. And do you know which one of you it
24 was that didn't follow the credit card

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1 A. I think it was just what you -- what
2 the money was, and then zero dollar amount.

3 Q. **Did it have hours indicated?**

4 A. It may have. I believe it may have.

5 Q. **Did you ever ask why the amount was
6 zero?**

7 A. No.

8 Q. **Did you have an understanding of why
9 the amount was zero?**

10 A. No.

11 Q. **I believe you said it was common
12 practice at restaurants to withhold the taxes
13 from your tip amount?**

14 A. Right. But it's impossible for you
15 to earn a certain amount of money, and then for
16 it to be taxed out that way.

17 Q. **That's impossible?**

18 A. Well, I mean that's my understanding
19 of it.

20 Q. **So that's never happened to you at
21 any other restaurant?**

22 A. Some places where you received a low
23 check, like maybe a \$12 check or a \$40 check.

24 Q. **But never zero?**

1 A. Not that I remember, any specific
2 restaurant where I worked where I received no
3 money at all.

4 Q. **Are there restaurants that you
5 worked at where you made more in tips than at the
6 40/40 Club?**

7 A. Some were pretty close.

8 Q. **Where?**

9 A. Josie's.

10 Q. **Is that it?**

11 A. Yeah, pretty much.

12 Q. **"Pretty close," do you mean as much
13 or --**

14 A. Like as far as like 200-, \$300 a
15 night, yeah. That's close. That's as close as
16 it got.

17 Q. **So you made \$200 a night less at
18 Josie's?**

19 A. No, I'm saying as far as when I made
20 two to \$300 at the 40/40, it was similar to what
21 I was making at the other restaurant.

22 Q. **Was that an average night, 200-,
23 \$300, or was that a low night?**

24 A. At what restaurant?

1 Q. **At the 40/40 Club.**

2 A. That's pretty average for me,
3 specifically. Other people made more money.

4 Q. **Why is that?**

5 A. They had better sections.

6 Q. **How much did you typically make a
7 week in tips at the 40/40 Club?**

8 A. I'd say anywhere between, depending
9 on the week, anywhere between \$600 to like \$800,
10 I think.

11 Q. **In Paragraph 4 of your declaration,
12 you say that you received tips, and that with
13 conversations with other employees you know it
14 was the common practice of defendants not to pay
15 employees who received a tip a minimum wage?**

16 A. Right.

17 Q. **Who were you referring to, that you
18 had conversations with?**

19 A. Other employees. Like the ones I
20 indicated before.

21 Q. **Larry?**

22 A. Right.

23 Q. **Do you recall anyone else you had a
24 conversation with on this?**

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1 A. No, not specifically. I mean just
2 general conversation. We all complained about
3 not receiving any kind of paycheck.

4 Q. **Did you ever raise that issue at a
5 staff meeting?**

6 A. No. I don't believe I did, no.

7 Q. **Did anyone at the meetings you were
8 present at?**

9 A. They may have. I don't remember. I
10 don't think so though.

11 Q. **Did you ever put a complaint into
12 the complaint box?**

13 A. No.

14 Q. **So you don't recall any specific
15 conversations about not receiving wages with
16 anyone other than Larry?**

17 A. I remember that specific situation
18 speaking with him about that. The connotation of
19 the conversation.

20 Q. **I'm sorry. The connotation?**

21 A. The connotation of the conversation,
22 basically what was said. This is how things are,
23 and that you don't receive a paycheck, basically.
24 And that you only get tips.

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1 A. Okay.

2 Q. It says, the 40/40 Club did not
3 require us to fill out any sort of tip
4 declaration.

5 A. No.

6 Q. But you did declare your tips?

7 A. At the end on the POSitouch.

8 Q. So you were required to declare
9 tips?

10 A. Yeah, but there was no form.

11 Q. Okay. But you declared your tips?

12 A. Right.

13 Q. And at the end of the paragraph you
14 say, based on the tips given to you and was
15 eventually paid to you, you believe you didn't
16 receive all of your tips due?17 A. Right. I didn't receive the tips
18 due for the parties that I worked. I did not
19 receive checks afterwards.20 Q. So if you received a check or were
21 given cash, you were given all the money that you
22 were due for that party?23 MR. KIRSCHENBAUM: Objection. She
24 didn't say that.1 for the money, and we were standing there, and we
2 all were kind of like in shock because they
3 weren't -- there were several people. I remember
4 two people, specifically one guy who stood there
5 for probably an hour, waiting for somebody to
6 give him the money. And we just stood there and
7 watched him stand there.

8 Q. The day of the party?

9 A. No, this was before, when I was
10 working there. I knew that once you quit, you
11 weren't going to get your money back, basically.12 Q. But you never went to get your
13 money?14 A. Well, why would I go get money that
15 I knew I wasn't going to receive.16 Q. Well, your knowledge for not
17 receiving it is based on?18 A. I worked there for that period of
19 time. And everybody who came back left there
20 after a week of working or wherever, never
21 received their money. While people worked there,
22 they said they never received money. When I
23 started people complained about they never
24 received money. So I wasn't going to go back and

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1 stand there and wait for one of them to give me
2 money that I knew I wasn't going to receive.
3 Because nobody else received it. And I'm not
4 going to think that they would make an exception
5 for myself.

6 Q. Who is it that you're referring to?

7 A. Some guy, I don't know. He worked
8 there maybe a week or two. And I remember he
9 came back. And I was -- I think I had opened
10 that day. It was around 6:00 maybe, and he came
11 in earlier and stood there.12 Q. Okay. But before you left your
13 employment with the 40/40 Club, you had received
14 the amount of money for all the tips for
15 parties --

16 A. If the party --

17 Q. If the party were paid prior to the
18 time you left your employment?

19 A. Right.

20 Q. And just to clarify, you never
21 called anyone at the club to see if you could
22 come in and pick up the --

23 A. No.

24 Q. -- additional tips? And you never

10 A. For some events. For some parties,

11 correct.

12 Q. But that eventually you did receive
13 that money?14 A. For some of them. Some of them I
15 just didn't keep track of the money, because I
16 had left. And I knew I wasn't getting it back.17 Q. So the only parties you didn't
18 receive payment for are parties that would have

19 been paid after you had left?

20 A. After the fact. After the fact of
21 the party.

22 Q. Was it after you left employment?

23 A. Yeah, I left, and I didn't go back
24 to the money. Because other people had come back

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1 A. I strongly don't believe I signed
2 any kind of paperwork.
3 Q. **What about the sales report or --**
4 A. I think I held on to something that,
5 you know, was evidence that something was taken
6 away from me.
7 Q. **But you no longer have that**
8 **document?**
9 A. No.

10 Q. **You referred to experiences of other** 10 Q. **What girl?**

11 **employees at the 40/40 Club having tips retained.** 11 A. I don't remember.

12 **What employees are you referring to?**

13 A. Other employees that worked there.

14 Q. **Do you have specific knowledge of** 14 Q. **And you saw the bottle break?**
15 **any other employee having their tip retained** 15 A. No. She -- I think it was something
16 **because of a credit card dispute?** 16 she said afterwards.

17 A. I'm not sure it's credit card. I 17 Q. **So you did not personally witness**
18 know like the young lady I spoke of, LaToya. I 18 it?
19 know she had issues with money being taken away 19 A. No.

20 from her.

21 Q. **What were the circumstances?**

22 A. I don't recall.

23 Q. **What's the basis for your knowledge?** 23 Q. **So that's a false statement in**
24 A. She told me. 24 14 Paragraph 14, where you say you personally
21 **witnessed this happen to another employee?**

MR. KIRSCHENBAUM: Objection.

That's a misconstruance.

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1 Q. **So not anything you witnessed** 1 Q. **That's false; right?**
2 **firsthand?** 2 MR. KIRSCHENBAUM: Objection.
3 A. I think I might have been there the 3 Q. **You can answer.**
4 same day, but I don't remember the specifics. 4 A. Well, because the person indicated
5 Q. **But your knowledge is based on what** 5 to me that it happened during the shift. So I
6 **she said to you?** 6 was there when it happened. I wasn't
7 A. Right. Conversations we had. 7 specifically -- wasn't there during the breakage.

8 Q. **What did she say to you?**

9 A. That she was owed money, basically.

10 Q. **But you don't know what she was owed** 10 A. Yeah, during cash out, she -- I
11 **money for?** 11 think we were all like near each other. And I
12 A. I don't remember specifically. 12 know that she definitely came out-of-pocket. I
13 Q. **And you don't recall when that** 13 mean she paid.

14 **conversation occurred?**

15 A. During my employment. I don't
16 remember specifically the day.

17 Q. **Were you ever required to pay for** 17 Q. **Did you see her hand someone the**
18 **any breakage or spills?** 18 **money for the breakage?**

19 A. No.

20 Q. **Did you ever break anything?**

21 A. Not that I remember -- well, I don't
22 know.

23 Q. **Did you ever spill anything?**

24 A. Yeah.

14 Q. **Because she told you that?**

15 A. Yeah, well, she took out separately.

16 She did it.

17 Q. **Did you see her hand someone the**
18 **money for the breakage?**

19 A. I don't recall seeing her hand

20 anybody money, but I know she said she did.

21 Q. **Did she tell you how much she paid?**

22 A. I think it was the sum of the

23 bottle.

24 Q. **Do you know who she paid that money**

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1 to?

2 A. The house.

3 Q. In particular --

4 A. The restaurant.

5 Q. -- who she handed the money to?

6 A. I don't know.

7 Q. Because you weren't there?

8 MR. KIRSCHENBAUM: Objection.

9 That's not what she said.

10 Q. Is it because you weren't there?

11 A. I was there on the day it happened.

12 I wasn't in the room when she handed the money

13 over. no.

14 Q. Does Shawn Carter have an office in 14 the club?

15 A. Not that I was aware of.

16 Q. Did Juan Perez have an office in the 17 club?

19 A. Yeah, in the back.

20 Q. Where that was office?

21 A. Behind the front office.

22 Q. Was that his personal office?

23 A. I guess a personal lounge area. I

24 don't know if it was an office. I don't remember 107 109

1 seeing a desk. It was like a couch, and some 2 baseball stuff.

3 Q. So just an area to spend time in?

4 A. Uh-huh.

5 Q. You didn't see him working there?

6 A. No.

7 Q. Have you ever met Shawn Carter?

8 A. Well, I've seen him come in the

9 restaurant and go upstairs, that's about it.

10 Q. You've never spoken with him?

11 A. No.

12 Q. He's never instructed you to do 13 anything?

14 A. No.

15 Q. Do you have knowledge of any

16 employee at the club that's been hired or

17 promoted by Mr. Carter?

18 A. No.

19 Q. Do you have knowledge of any

20 employee that's been disciplined or terminated by

21 Mr. Carter?

22 A. No.

23 Q. Do you have knowledge of any club

24 policies or procedures that were set by Mr.

1 Carter?

2 A. No.

3 Q. But you have met Juan Perez before?

4 A. Yes.

5 Q. And have you had discussions with 6 him?

7 A. Not conversations. Maybe hello,

8 that kind of thing, or like, you know, thank you

9 from me -- certain people had to wait on his

10 section -- well, not his section, but wait on

11 him. So you just go in and like ask him what he

12 wanted. And he'd just tell you, I want this; I

13 want that. And that's basically all I can

14 remember ever talking to him about. That kind of 15 stuff.

16 Q. So other than giving you food or

17 drink orders, did he ever instruct you to do

18 anything else?

19 A. No.

20 Q. Do you have any knowledge of any 21 employees in the club that he hired or promoted?

22 A. No.

23 Q. Do you have knowledge of any

24 employee that has been disciplined or terminated 107 109

1 by him?

2 A. No.

3 Q. Do you have knowledge of any club 4 policies or procedures that Mr. Perez set?

5 A. No.

6 Q. Do you have any knowledge of any 7 control at all, either by Shawn Carter or Juan 8 Perez, over your employment at the club?

9 A. Control over, like my position?

10 Q. Yeah.

11 A. No.

12 Q. Since you left the 40/40 Club, have 13 you had conversations with any current or former 14 employees concerning your claims in this lawsuit?

15 A. Uh-huh.

16 Q. Who?

17 A. LaToya.

18 Q. Anyone else?

19 A. No, not that I can remember, no.

20 Q. When did your conversation with

21 LaToya occur?

22 A. Initially when I called. I called

23 her and left a message. And asked her if she was

24 interested. And she said no. She wasn't